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15 UNITED STATES DISTRICT COURT
16 CENTRAL DISTRICT OF CALIFORNIA
17

18 United States of America,
19 Plaintiff,
20 vs.
21 Cary Yee, et al.,
22 Defendants.

Case No. CV 08-07602 PSG (SHx)
[Proposed] **Amended** Judgment
and Order of Sale

23 Judge Philip S. Gutierrez
24

25 On June 25, 2009, the United States of America (Plaintiff)
26 moved for summary judgment. Based on the papers filed in this
27 case and all other matters properly made part of the record,
28

1 **IT IS ORDERED:**

2 1. The United States of America has a valid federal tax lien,
3 in the amount of the unpaid tax liability, against the real property of
4 Cary Yee and Nancy Yee located in Riverside, California, which they
5 own as joint tenants, ("the subject property"), and is legally
6 described as:

7 LOT 1 OF TRACT NO. 4804-1, EXCEPT THE SOUTH 5.00 FEET, PER
8 MAP RECORDED IN BOOK 78, PAGE 71 OF MAPS, IN THE OFFICE
9 OF THE COUNTY RECORDER OF RIVERSIDE COUNTY, STATE OF
10 CALIFORNIA.

11 [Assessor Parcel No. 245-152-012-0]

12 2. Cary and Nancy Yee are liable for the balances due *in*
13 *rem* with respect to the subject property, for their 1991, 1993, and
14 1994 income tax years.

15 3. As of May 30, 2008, the balance due from Cary and
16 Nancy Yee for the 1991, 1993, and 1994 income tax years were
17 \$213,786.46, \$66,951.98, and \$86,153.51 respectively, for a total of
18 \$366,891.95.

19 4. The balance due includes both assessed and accrued
20 liabilities (taxes, additions to tax, interest, fees and collection costs).

21 5. The balance due to the United States for additions to tax
22 and interest, as permitted by law, continues to accrue after May 30,
23 2008.

24 6. The federal tax lien is hereby foreclosed against Cary
25 Yee's and Nancy Yee's interest in the subject property.

26 7. The subject property is ordered to be sold by the Area
27 Director of the Internal Revenue Service, Los Angeles, California Area
28

1 (Area Director), or his delegate, in accordance with the provisions of
2 28 U.S.C. § § 2001 and 2002.

3 8. The Area Director, or his delegate, is ordered to sell the
4 subject property in accordance with 28 U.S.C. § § 2001(a) and
5 2002. The property shall be sold at a public sale to be held at the
6 Riverside County Historic Courthouse, 4050 Main Street, Riverside,
7 California, as follows:

8 a. Notice of the sale shall be published once a week for at
9 least four (4) weeks prior to the sale in at least one
10 newspaper regularly issued and of general circulation in
11 Riverside County, California. Said notice shall describe the
12 property by both its street address and its legal
13 description, and shall contain the terms and conditions of
14 sale as set out herein.

15 b. The terms and conditions of sale shall be as follows:

- 16 i. The Internal Revenue Service shall appraise the
17 current fair market value of the subject property
18 (appraised value).
19 ii. The minimum bid shall be 75% of the appraised
20 value.
21 iii. The United States of America may bid a credit
22 against its judgment and interest thereon, costs, and
23 expenses, without tender of cash.
24 iv. The terms of sale as to all other persons or parties
25 bidding shall be cash. The successful bidder shall be
26 required to deposit with the Area Director cash
27 equal to twenty percent (20%) of the bidder's total
28 bid immediately upon the property being struck off

1 and awarded to such bidder as the highest and best
2 bidder; and the remaining eighty percent (80%) of
3 said purchase price is to be paid on or before 5:00
4 p.m., within three (3) days of the date of sale.

- 5 v. Should the successful bidder fail to comply with the
6 terms of the sale, such bidder shall be liable to the
7 United States for twenty percent (20%) of the value
8 of the property as a penalty, and said deposit shall
9 be paid over and delivered to the United States to
10 be applied toward payment of said penalty.

11 Payment of said penalty shall not be a credit on the
12 judgment of the United States.

- 13 c. Upon selling the subject real property, the Area Director,
14 or his delegate, shall prepare and file with this Court an
15 accounting and report of sale and shall give to the
16 purchaser a Certificate of Sale containing the description
17 of the property sold and the price paid. The accounting
18 and report of sale shall be filed within ten (10) days from
19 the date of sale. If no objections have been filed in
20 writing in this cause with the Clerk of the Court, within
21 fifteen (15) days of the date of sale, the sale shall be
22 confirmed without necessity of motion, and the Area
23 Director shall be directed by the Clerk of the Court to
24 execute and deliver his deed to said purchaser.

- 25 d. Possession of the property sold shall be yielded to the
26 purchaser upon the production of the Certificate of Sale
27 and Deed; and if there is a refusal to so yield, a Writ of
28 Assistance may, without further notice, be issued by the

1 Clerk of this Court to compel delivery of the property sold
2 to the purchaser.

3 e. The Area Director shall apply the proceeds of sale to
4 expenses of sale and then in the following order of
5 priorities:

6 i. First, in satisfaction of any unpaid property taxes
7 owing to the County of Riverside as secured against
8 the subject real property on the date of sale;

9 ii. Second, to Washington Mutual;

10 iii. Third, the United States of America;

11 iv. Fourth, if any surplus remains after making the
12 aforesaid payments, the Area Director, or his
13 delegate, shall so report, and return and pay the
14 same into the registry of this Court for distribution
15 under further order of this Court.

16 9. Court hereby retains jurisdiction of this action for the
17 purpose of making proper distribution of any surplus of the proceeds
18 of sale, pursuant to the Area Director's Accounting and Report of
19 Sale.

20
21 **IT IS SO ORDERED.**

22
23 DATED: ___August 05, 2009

PHILIP S. GUTIERREZ

HON. PHILIP S. GUTIERREZ
United States District Judge

24
25 Respectfully presented by:

26
27 THOMAS P. O'BRIEN
United States Attorney
28 SANDRA R. BROWN

1 Assistant United States Attorney
2 Chief, Tax Division

3 *//s// Daniel Layton*

4 DANIEL LAYTON

5 Assistant United States Attorney
6 Attorneys for United States of America
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